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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/561,044 | 12/16/2005 | Willi Henkenhaf | 1000.002 | 1932 |
| 58152 | 7590 | 10/11/2007 | EXAMINER | |
| DEFILLO & ASSOCIATES, INC. P.O. Box 14104 Clearwater, FL 33766 | | | | EDGAR, RICHARD A |
| ART UNIT | | PAPER NUMBER | | |
| | | 3745 | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/561,044 | HENKENHAF, WILLI |
| | Examiner | Art Unit |
| | Richard Edgar | 3745 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 December 2005 under 35 USC 371.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 16 December 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/16/2005</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Preliminary Amendment

Applicant's attention is directed to 37 CFR 1.121 for proper amendment submissions. The preliminary amendment to the claims filed 16 December 2005 does not utilize underlining for added subject matter (boldface font is not an acceptable alternative), does not preserve claim numbering throughout prosecution (see claims 5 and 6), and does not utilize claims status identifiers (new, currently amended, original, etc.). The claims are non-compliant with 37 CFR 1.121, and an examination of the originally filed claims is found below.

Drawings

Figure 3a and 3b are different views, which are not numbered consecutively in Arabic numerals. See PCT Rule 11.13(k).

MPEP 1825 states with respect to figure numbering, "numbering should be preceded by the expression 'Fig.'"

The reference sign "32" has been used to designate converging vertical surfaces in Fig. 4 and eye hooks in FIG. 7.

The reference signs 17b, 27a, 27b, 28a, 28b2, 7a mentioned in the description are do not appear in the drawings (see PCT Rule 11.13(l)).

The sign "11a" has been used on page 7, lines 2 and 6 to represent different features.

The sign "33a" on page 6, line 126 should be "32b" and the sign "32b" on page 6, line 127 should be "33a."

Claim Objections

Claims 2, and 4-6 are objected to because of the following informalities: the preambles of the aforementioned claims should match the "fluid wheel generator" preamble from which they depend. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4,057,270 (Lebost hereinafter).

Lebost discloses a fluid wheel generator comprising a first fluid wheel 12 and generator 52 pair mounted on a first vertical axle 50 for rotation about a vertical axis; a second fluid wheel 14 and generator 60 pair mounted on a second vertical axle 56 for co-rotation with said first fluid wheel 12 and generator 52 pair about said first vertical axis; said second vertical axle 56 adapted for rotation about said first vertical axle 50; said first and second fluid wheels 12, 14 immersed in a stream of moving fluid (see

Abstract); said first and second generators 52, 60 mounted in the stream of fluid, and above a portion of the moving fluid when erected on the tower depicted in FIG. 1.

Regarding claim 4, the fluid is water (see Field of the Invention).

Concerning claim 6, the generator pairs 52, 60 are vertically below the wheels 12, 14.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 4,057,270 (Lebost hereinafter) as applied to claim 4 above, and further in view of United States Patent Application No. 2002/0141858 A1 (Downing hereinafter).

Lebost teaches to mount the fluid turbine in a water current including a river base (see col. 2, line 67-col. 3, line 4), but does not state to configure the generator above the water.

Downing teaches a water turbine having a generator 36 mounted above the water line 44 for the purpose of preventing water from reaching the electrical generator.

Since Lebost teaches a water turbine with an electrical generator on a vertical axis, and Downing teaches for a vertical axis water turbine, to mount the generator

above the water, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to mount the Lebost generator 52,60 above the water as taught by Downing, for the purpose of preventing water from reaching the electrical generator.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application No. 2002/0141858 A1 (Downing hereinafter) in view of United States Patent No. 4,057,270 (Lebost hereinafter).

Downing teaches a water turbine having paddles 16 mounted to a central hub 30 or pivoting about a vertical axis between an open and closed position (see FIG. 8). A generator 36 is mounted above the water line 44.

Downing does not teach coaxial water wheels.

Lebost discloses a fluid wheel generator comprising a first fluid wheel 12 and generator 52 pair mounted on a first vertical axle 50 for rotation about a vertical axis; a second fluid wheel 14 and generator 60 pair mounted on a second vertical axle 56 for co-rotation with said first fluid wheel 12 and generator 52 pair about said first vertical axis; said second vertical axle 56 adapted for rotation about said first vertical axle 50. The twin rotors 12, 14 are provided for the purpose of increasing the power output and efficiency (see Summary of the Invention).

Since Downing teaches a vertical axis water turbine and Lebost teaches to increase the power output and efficiency of a water turbine by utilizing twin rotors, it would have been obvious at the time the invention was made to a person having

ordinary skill in the art to duplicate the rotor of Downing to have twin rotors rotating as taught in Lebost, for the purpose of increasing the power output and efficiency of the turbine.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Edgar whose telephone number is (571) 272-4816. The examiner can normally be reached on Monday thru Friday, 7 am- 5 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard Edgar/
Primary Examiner
Art Unit 3745

RE